

Commodity Futures Trading Commission

§ 140.24

§ 140.23 General access requirements.

(a) *Determination of trustworthiness.* No person shall be given access to classified information unless a favorable determination has been made as to the person's trustworthiness. The determination of eligibility, referred to as a security clearance, shall be based on such investigations as the Commission may require in accordance with the applicable Office of Personnel Management standards and criteria.

(b) *Determination of need-to-know.* A person is not entitled to receive classified information solely by virtue of having been granted a security clearance. A person must also have a need for access to the particular classified information sought in connection with the performance of official government duties or contractual obligations. The determination of that need shall be made by officials having responsibility for the classified information.

[48 FR 15464, Apr. 11, 1983]

§ 140.24 Control and accountability procedures.

Persons entrusted with classified information shall be responsible for providing protection and accountability for such information at all times and for locking classified information in approved security equipment whenever it is not in use or under direct supervision of authorized persons.

(a) *General safeguards.* (1) Classified material must not be left in unoccupied rooms or be left inadequately protected in an occupied office, or one occupied by other than security cleared employees. Under no circumstances shall classified material be placed in desk drawers or anywhere other than in approved storage containers.

(2) Employees using classified material shall take every precaution to prevent deliberate or casual inspection of it by unauthorized persons. Classified material shall be kept under constant surveillance and face down or covered when not in use.

(3) All copies of classified documents and any informal material such as memoranda, rough drafts, shorthand notes, carbon copies, carbon paper, typewriter ribbons, recording discs, spools and tapes shall be given the

same classification and secure handling as the classified information they contain.

(4) Commission personnel authorized to use classified materials will obtain them from the Executive Director or his delegee on the day required and return them to the Executive Director or his delegee before the close of business on the same day.

(5) Classified information shall not be revealed in telephone or telecommunications conversations.

(6) Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances either to the Security Officer or to the Executive Director or his delegee. The Executive Director or his delegee shall initiate a preliminary inquiry to determine the circumstances surrounding an actual or possible compromise, and to determine what corrective measures and administrative, disciplinary, or legal action is necessary.

(b) *Reproduction controls.* (1) The number of copies of documents containing classified information must be kept to the minimum required by operational necessity to decrease the risk of compromise and reduce storage costs.

(2) Top Secret documents, except for the controlled initial distribution of information processed or received electrically, shall not be reproduced without the consent of the originator.

(3) Unless restricted by the originating agency, Secret and Confidential documents may be reproduced to the extent required by operational needs.

(4) Reproduced copies of classified documents shall be subject to the same accountability and controls as the original documents.

(5) Classified reproduction shall be controlled by persons with the proper level of security clearance.

(6) Records shall be maintained to show the number and distribution of reproduced copies to all Top Secret documents, of all classified documents covered by special access programs distributed outside the originating agency, and of all Secret and Confidential documents which are marked with special dissemination and reproduction limitations.

(7) Unauthorized reproduction of classified material will be subject to appropriate disciplinary action.

(c) *Storage of classified material.* (1) All classified material in the custody of the Commission will be stored in accordance with the guidelines set forth in 32 CFR 2001.43.

(2) In addition, the Commission remains subject to the provisions of 32 CFR part 2001, *et seq.*, insofar as they are applicable to classified materials held by the Commission.

[48 FR 15464, Apr. 11, 1983, as amended at 61 FR 21955, May 13, 1996]

§ 140.61 [Reserved]

§ 140.72 Delegation of authority to disclose confidential information to a registered entity, swap execution facility, swap data repository, registered futures association or self-regulatory organization.

(a) Pursuant to the authority granted under sections 2(a)(11), 8a(5) and 8a(6) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director, the Deputy Executive Director, the Special Assistant to the Executive Director, Director of the Division of Swap Dealer and Intermediary Oversight, the Chief Counsel of the Division of Swap Dealer and Intermediary Oversight, each Deputy Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk, the Chief Counsel of the Division of Clearing and Risk, each Deputy Director of the Division of Clearing and Risk, the Chief Accountant, the General Counsel, each Deputy General Counsel, the Director of the Division of Market Oversight, each Deputy Director of the Division of Market Oversight, the Deputy Director of the Market and Trade Practice Surveillance Branch, the Director of the Division of Enforcement, each Deputy Director of the Division of Enforcement, each Associate Director of the Division of Enforcement, the Chief Counsel of the Division of Enforcement, each Regional Counsel of the Division of Enforcement, each of the Regional Administrators, the Chief Economist of the Office of the Chief Economist, the Deputy Chief Economist of the Office of the Chief Economist, the

Director of the Office of International Affairs, and the Deputy Director of the Office of International Affairs, the authority to disclose to an official of any registered entity, swap execution facility, swap data repository, registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934, any information necessary or appropriate to effectuate the purposes of the Act, including, but not limited to, the full facts concerning any transaction or market operation, including the names of the parties thereto. This authority to disclose shall be based on a determination that the transaction or market operation disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors or that disclosure is necessary or appropriate to effectuate the purposes of the Act. The authority to make such a determination is also delegated by the Commission to the Commission employees identified in this section. A Commission employee delegated authority under this section may exercise that authority on his or her own initiative or in response to a request by an official of a registered entity, swap execution facility, swap data repository, registered futures association or self-regulatory organization.

(b) Disclosure under this section shall only be made to a registered entity, swap execution facility, swap data repository, registered futures association or self-regulatory organization official who is named in a list filed with the Commission by the chief executive officer of the registered entity, swap execution facility, swap data repository, registered futures association or self-regulatory organization, which sets forth the official's name, business address and telephone number. The chief executive officer shall thereafter notify the Commission of any deletions or additions to the list of officials authorized to receive disclosures under this section. The original list and any supplemental list required by this paragraph shall be filed with the Secretary of the Commission, and a copy thereof shall also be filed with the Regional Coordinator for the region in